Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	GN Docket 09-51
A National Broadband Plan for our Future	)	
	)	GN Docket 09-47
	)	
	)	GN Docket 09-137

COMMENTS OF KODIAK-KENAI CABLE COMPANY, LLC -- NBP PUBLIC NOTICE # 5

Kodiak Kenai Cable Company, LLC ("KKCC"), by its undersigned counsel, hereby responds to the Commission's Public Notice seeking comment on identifying and remedying barriers to broadband deployment and adoption on Tribal lands as part of the Commission's development of a National Broadband Plan. [1]

I. BACKGROUND

KKCC is an applicant under both the Rural Utility Service ("RUS") Broadband Infrastructure Program ("BIP") and the National Telecommunications and Information Administration ("NTIA") Broadband Technology Opportunity Program ("BTOP") for funding the construction of a new undersea fiber optic cable to serve as a backbone system providing high-speed broadband to western and northern Alaska. The proposed middle mile system, called the Northern Fiber Optic Link, was described more completely in KKCC's recently filed comments in response to NBP Public Notice # 11, addressing the role of middle mile and second mile networks in the Commission's development of a National Broadband Plan.[2]

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[1] DA 09-2093, released September 23, 2009.

[2] Comments of Kodiak-Kenai Cable Company, LLC, GN Dockets 09-51, 09-47 and 09-137, filed November 4, 2009 (hereinafter, "KKCC Middle Mile Comments").

The Commission's Public Notice recognizes that Tribal lands, also referred to in the Public Notice as "Indian Country," includes Alaska Native Villages and their lands.[3] KKCC focuses its comments in this matter to the interests of Alaska Natives, who inhabit KKCC's proposed service area.

The Public Notice acknowledges that the low broadband subscription rates in Indian Country can be correlated with the rural nature of most Tribal lands and the resulting lack of adequate broadband deployment. It also recognizes anecdotal evidence that the price of service can be a barrier to broadband adoption and sustainability, including in Tribal lands. Among other questions, the Public Notice asks:

* Are there specific questions to be learned from the build-out of telephone lines to particular Tribal areas that can be applied to the deployment of broadband in Tribal land?

* What specific actions can the Commission and/or other federal agencies take to encourage or facilitate greater coordination among governmental agencies and Tribal governments to promote broadband deployment?

* What actions can the Commission and Tribes take to facilitate carrier entry into Tribal areas for the purpose of providing affordable and sustainable broadband service?

II. DISCUSSION

In addressing the special needs of Native Americans in the development of its National Broadband Plan, the Commission should pay specific attention to Alaska because this largest state in the country is comprised ***in its entirety*** of Tribal lands. The Regulatory Commission of Alaska relied on Department of the Interior Bureau of Indian Affairs ("BIA") standards in making this determination with regard to the qualification of all areas of the state for Lifeline and Linkup programs to encourage infrastructure development and telecommunications

[3] *Supra* note 1, at note 7.

services subscribership.[4] This Commission has similarly accepted the BIA's definition of "reservation" and "near reservation" to define those geographic areas in which the Commission shall adopt rule changes that benefit members of federally-recognized Indian tribes.[5] Further underscoring the pervasive significance of Tribal interests to the state is the fact that over 40% of the 564 federally recognized tribes in the nation are situated in Alaska.[6] Census figures reveal that at least 72% of the population of the area that KKCC seeks to serve with its Northern Fiber Optic Link system is comprised of Native Alaskans.

The Commission has previously concluded that disproportionately low subscribership levels on Tribal lands are due more to lack of access to and/or affordability of telecommunications services in those areas than to cultural or individual preferences.[7] In the case of Alaska, it is clear that Native Alaskans are subject to the same deprivation of access to broadband services as are other rural residents of the state. KKCC has previously reported in this proceeding that the dependence of Alaska's rural communities on a duopoly of satellite capacity providers for middle mile transport services has constricted the availability of broadband outside of the state's few urban centers, causing broadband access in this region to be offered at unaffordably high rates.[8] In addition, the physical limitations of satellite as a

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[4] *In the Matter of Consideration of Lifeline and Link Up Policies and Determination of Which Areas of Alaska Are Eligible for Enhanced Lifeline and Expanded Link Up Services,* Order R-00-7(3), May 11, 2001.

[5] *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas,* Twelfth Report and Order, CC Docket 96-45, released June 30, 2000 (hereinafter, "*Tribal Order*"), ¶¶ 16-19. "In particular, we agree with commenters who argue that Alaska Native Statistical Areas and other lands conveyed pursuant to the Alaska Native Claims Settlement Act, although not Indian reservations, should be included within the definition of tribal lands insofar as these lands are federally-recognized lands that are inhabited by Alaska Native tribes."

[6] *See* www.bia.gov/WhatWeDo/index.htm; www.bia.gov/WhoWeAre/RegionalOffices/Alaska/WeAre/Tribes/index.htm.

[7] *Tribal Order,* ¶ 20.

[8] KKCC Middle Mile Comments, at 7-12.

transport technology have resulted in scarcity of broadband capacity throughout most of Alaska, severely constraining the speeds at which the Internet can be accessed by residents, businesses and anchor institutions in this region. For example, KKCC's analysis of available broadband speeds in 139 communities of its proposed service area in western and northern Alaska reveals that, with the possible exception of a handful of regional centers, none of these communities has access to even the minimum upload and download speeds that NTIA and RUS have adopted for the BIP/BTOP broadband infrastructure funding programs they are administering.[9]

These findings lead to the further conclusion that the remote, rural parts of the country, including Alaska, require a more robust technology than satellites are able to offer, like fiber optics terrestrial systems, for the delivery of meaningful broadband capacity. Because deployment of such terrestrial infrastructure cannot be financed on commercial terms -- given the substantial cost of construction and installation and the geographically broad dispersal of target user groups in such areas – public funding of such infrastructure is normally the only viable alternative.[10]

KKCC's Alaska experience, therefore, provides several important lessons for the Commission in its development of a National Broadband Plan that will help overcome barriers to both access to and affordability of broadband on Tribal lands. First, the middle mile transport element must be recognized as critical to the delivery of effective broadband capacity to rural and remote areas, which typically characterize Tribal lands.[11] Second, to be effective, such middle mile transport should be developed using backbone fiber optic, terrestrial (including submarine) systems. Third, it is recognized that the deployment of fiber

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[9] *See* Attachment A: "Survey of Fastest Download Speeds by Community in Proposed Funded Service Area."

[10] KKCC Middle Mile Comments, at 13-14, 15-16.

[11] *See* NBP Public Notice # 5, at 3.

optic, terrestrial systems in rural and remote areas will in many, if not most, cases require public financial support to be realized. By helping to open Tribal lands to affordable broadband access through such technologies, the National Broadband Plan will help provide the opportunity for adoption of use among Native Alaskans, as well as other Native Americans, a result previously demonstrated for telephone subscribership through the deployment of modern telecommunications services in Indian Country.[12] Finally, if publicly supported fiber optic backbone systems deployed to Tribal lands are operated on a carrier-neutral basis, as KKCC proposes to do with the Northern Fiber Optic Link, the opportunity will be provided for competitive providers of last-mile broadband services interconnected to such backbone networks to evolve in Indian Country.

KKCC submits that these are important findings for the benefit of Native Alaskans and other federally recognized Native Americans that should be given prominent recognition in the National Broadband Plan.[13]

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[12] NBP Public Notice # 5, at 4-5.

[13] The Regulatory Commission of Alaska enforces a "fresh look" policy when a competitive local exchange carrier ("LEC") enters an incumbent LEC's market for the first time. Under this policy, customers of the incumbent LEC are permitted to terminate long-term service agreements with the incumbent within 180 days of the competitive LEC's entry. In this manner, the incumbent is prevented from unfairly locking up long-term customer arrangements to the detriment of the new entrant. *See, e.g.*, Order No. U-05-88(1), released May 2, 2006. While KKCC is not advocating that the Commission adopt a similar "fresh look" policy to protect Alaska Native and other broadband customers of incumbent transport providers, KKCC notes that the RUS and NTIA should announce their decisions for broadband infrastructure funding awards under the Recovery Act as quickly as possible in order to provide notice at the earliest possible time to customers of incumbent transport providers that they will soon have the opportunity to select between competing transport service providers.

Respectfully submitted,

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SURVEY OF FASTEST DOWNLOAD SPEEDS BY COMMUNITY IN PROPOSED FUNDED SERVICE AREA

Community	Provider	Residential Speed - download/upload
Adak	Adak Tel	128kbps/96kbps
Akiachak	Unicom	56kbps
Akiak	Unicom	56kbps
Akutan	GCI	56kbps
Alakanuk	Unicom	56kbps
Aleknagik	GCI	256kbps/56kbps
Ambler	Inutek	256kbps/64kbps
Aniak	Alascom	384kbps/384kbps
Anvik	GCI	256kbps/56kbps
Atka	GCI	56kbps
Atmautluak	GCI	256kbps/56kbps
Atqasuk	GCI	56kbps
Attu	military?	
Barrow	GCI	1.5mbps/256kbps
Bethel	GCI	1.5mbps/256kbps
Brevig Mission	GCI	256kbps/56kbps
Buckland	Inutek	256kbps/64kbps
Chefornak	Unicom	256kbps/64kbps
Chevak	GCI	256kbps/56kbps
Chignik	GCI	256kbps/56kbps
Chignik Lagoon	GCI	256kbps/56kbps
Chignik Lake	GCI	256kbps/56kbps
Chuathbaluk	GCI	256kbps/56kbps
Clark's Point	GCI	256kbps/56kbps
Cold Bay	ITC	256kbps/256kbps
Crooked Creek	GCI	256kbps/56kbps
Deering	Inutek	256kbps/64kbps
Dillingham	Nushagak	256kbps/128kbps
Diomede	GCI	256kbps/56kbps
Eek	Unicom	256kbps/64kbps
Egegik	GCI	256kbps/56kbps
Ekwok	BBTC	256kbps/56kbps
Elim	GCI	256kbps/56kbps
Emmonak	Unicom	56kbps
False Pass	GCI	256kbps/56kbps
Flat		None
Galena	GCI	256kbps/56kbps
Gambell	GCI	256kbps/56kbps
Golovin	GCI	256kbps/56kbps
Goodnews Bay	GCI	256kbps/56kbps
Grayling	GCI	256kbps/56kbps
Holy Cross	GCI	256kbps/56kbps
Hooper Bay	Unicom	56kbps
Huslia	GCI	256kbps/56kbps
Igiugig	BBTC	256kbps/56kbps
Iliamna	GCI	256kbps/56kbps
Ivanof Bay	GCI	256kbps/56kbps
Kaltag	GCI	256kbps/56kbps
Kasigluk	GCI	256kbps/56kbps
Kiana	GCI	256kbps/56kbps
King Cove	ITC	256kbps/256kbps
King Salmon	BBTC	256kbps/56kbps

ATTACHMENT A

SURVEY OF FASTEST DOWNLOAD SPEEDS BY COMMUNITY IN PROPOSED FUNDED SERVICE AREA

Community	Provider	Residential Speed - download/upload
Kipnuk	Unicom	256kbps/64kbps
Kivalina	GCI	256kbps/56kbps
Kobuk	GCI	256kbps/56kbps
Kokhanok	GCI	256kbps/56kbps
Koliganek	BBTC	256kbps/56kbps
Kongiganak	Unicom	256kbps/64kbps
Kotlik		None
Kotzebue	OTZ	1.5mbps/256kbps
Koyuk	GCI	256kbps/56kbps
Koyukuk	GCI	256kbps/56kbps
Kwethluk	GCI	256kbps/56kbps
Kwigillingok	Unicom	256kbps/64kbps
Levelock	BBTC	256kbps/56kbps
Lime Village	GCI	256kbps/56kbps
Lower Kalskag	GCI	256kbps/56kbps
Manokotak	GCI	256kbps/56kbps
Marshall		None
McGrath	GCI	256kbps/56kbps
Mekoryuk	GCI	256kbps/56kbps
Mountain Village	Unicom	56kbps
Naknek	BBTC	256kbps/56kbps
Napakiak	GCI	256kbps/56kbps
Napaskiak	GCI	256kbps/56kbps
Nelson Lagoon	GCI	256kbps/56kbps
New Stuyahok	BBTC	256kbps/56kbps
Newhalen	GCI	256kbps/56kbps
Newtok	Unicom	256kbps/64kbps
Nightmute	Unicom	256kbps/64kbps
Nikolski	GCI	56kbps
Noatak	GCI	256kbps/56kbps
Nome	GCI	1.5mbps/256kbps
Nondalton	GCI	256kbps/56kbps
Noorvik	GCI	256kbps/56kbps
Nulato	GCI	256kbps/56kbps
Nunam Iqua	Unicom	56kbps
Nunapitchuk	GCI	256kbps/56kbps
Oscarville	GCI	256kbps/56kbps
Pedro Bay	GCI	256kbps/56kbps
Perryville	GCI	256kbps/56kbps
Pilot Point	GCI	256kbps/56kbps
Pilot Station	GCI	256kbps/56kbps
Pitkas Point		None
Platinum	GCI	256kbps/56kbps
Point Hope	GCI	256kbps/56kbps
Point Lay	GCI	256kbps/56kbps
Pope-Vannoy Landing		None
Port Alsworth	GCI	256kbps/56kbps
Port Clarence	military?	
Port Heiden	GCI	256kbps/56kbps
Portage Creek	GCI	256kbps/56kbps
Prudhoe Bay	ACS	800kbps-1.0mbps
Quinhagak	Unicom	256kbps/64kbps

SURVEY OF FASTEST DOWNLOAD SPEEDS BY COMMUNITY IN PROPOSED FUNDED SERVICE AREA

Community	Provider	Residential Speed - download/upload
Red Devil	GCI	256kbps/56kbps
Red Dog	GCI	56kbps
Ruby	GCI	256kbps/56kbps
Russian Mission		None
Saint George		None
Saint Mary's	GCI	256kbps/56kbps
Saint Michael	GCI	256kbps/56kbps
Saint Paul		None
Sand Point	ITC	256kbps/256kbps
Savoonga	GCI	256kbps/56kbps
Scammon Bay		None
Selawik	Inutek	256kbps/64kbps
Shageluk	GCI	256kbps/56kbps
Shaktoolik	GCI	256kbps/56kbps
Shishmaref	GCI	256kbps/56kbps
Shungnak	GCI	256kbps/56kbps
Sleetmute	GCI	256kbps/56kbps
South Naknek	BBTC	256kbps/56kbps
Stebbins	GCI	256kbps/56kbps
Stony River	GCI	256kbps/56kbps
Takotna	GCI	256kbps/56kbps
Teller	GCI	256kbps/56kbps
Togiak	GCI	256kbps/56kbps
Toksook Bay	Unicom	256kbps/64kbps
Tuluksak	GCI	256kbps/56kbps
Tuntutuliak	Unicom	256kbps/64kbps
Tununak	Unicom	256kbps/64kbps
Twin Hills	Unicom	56kbps
Ugashik		None
Unalakleet	GCI	56kbps
Unalaska/Dutch Harbor	ITC	168kbps/168kbps
Upper Kalskag	GCI	256kbps/56kbps
Wainwright	GCI	56kbps
Wales	GCI	256kbps/56kbps
White Mountain	GCI	256kbps/56kbps